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BEFORE THE FEDERAL ELECTION COMMISSION

2004 JUN -1 P 2: 13

2004 JUN -1 P 12: 48

In re: Geoff Davis for Congress)
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INITIAL RESPONSE OF GEOFF DAVIS FOR CONGRESS TO COMPLAINT

By and through the undersigned counsel, Geoff Davis for Congress submits its initial response to Public Citizen's complaint in this matter, and respectfully requests that the complaint be dismissed.

The complaint does not offer any evidence of wrongdoing. Instead, relying only on publicly available FEC reports, the complaint bootstraps inference on top of inference, and attempts to portray lawful contributions received by Geoff Davis for Congress as sinister. Given its lack of evidence of wrongdoing, the complaint ought to be dismissed.

To be clear, Geoff Davis for Congress received the contributions at issue in its ordinary course of business. The contributions were not earmarked, and the campaign is unaware of the inner workings of the various political action committees referenced in the complaint. The campaign had no reason to believe that anything was improper about the contributions at the time of receipt, and the same is true now.

Contrary to the unreasonable inferences drawn in the complaint, there are more obvious explanations for why the contributors referenced in the complaint contributed to the campaign. The dates of the contributions themselves are not out of the ordinary. March 31 and September 30 are obvious days for contributions, as these days mark the end of the quarter for campaign reports. A review of the disclosure reports of any competitive campaign in America, whether Republican or Democrat, will reveal a large number of contributions on those days.

Moreover, contributors (particularly so-called "Leadership PACs") tend to give to candidates in competitive races, and in particular to candidates that can ultimately win. Geoff Davis is that sort of candidate. He is a graduate of the U.S. Military Academy at West Point, New York. During his Army career, he served as an Assault Helicopter Flight Commander in the 82nd Airborne Division, and later ran the U.S. Army Aviation Operations for Peace Enforcement between Israel and Egypt. He is a former Army Ranger and Senior Parachutist.

Davis ran in Kentucky's fourth congressional district in 2002, and almost defeated Democrat incumbent Ken Lucas in 2002, having received 48% of the vote to Lucas'

51%. Davis has already secured the Republican nomination for the November election, and will face Democrat Nick Clooney, father to Hollywood actor George Clooney.

Davis has been endorsed by every Republican member of Kentucky's delegation, and three Kentucky members of Congress contributed \$1,000 each to his campaign. See *National Journal's House Race Hotline* (May 6, 2004), and *The Cincinnati Enquirer*, "Three Kentucky Congress Members Back Davis" (June 18, 2003). He has also been endorsed by House Speaker Dennis Hastert. See *National Journal's House Race Hotline* (May 6, 2004). Other endorsements have come from former Fourth District Congressman Gene Snyder, state Senator Ernie Harris, state Representative Tim Feeley and a group of Oldham County officials. See *The Cincinnati Enquirer*, "Congressional candidate nabs GOP endorsements" (August 26, 2003).

The two notable political reports stated that Davis is the clear favorite. The August 2003 *Cook Political Report* stated that "Republican insiders are rallying around Davis, who by the end of June showed \$260,000 in the bank, including a contribution from the Club for Growth." The August 1, 2003, *Rothenberg Political Report* noted that "Republicans see this as a serious opportunity, and Davis is lining up considerable support. NRCC Chairman Cong. Tom Reynolds (R-NY) has already made a personal contribution to Davis."

Davis has already won his primary, soundly defeating Kevin Murphy, 58% to 31%. The August 2003 *Cook Political Report* stated that Kevin Murphy "has some political baggage that will give him some trouble in the primary. The first is the fact that he endorsed [Democratic Congressman Ken] Lucas in the 1998 primary. The other is a newspaper column that he writes for the *Community Recorder* newspapers of Northern Kentucky that may give his opponents plenty of fodder."

Critically, Davis has been an outstanding fundraiser. According to the *Almanac of American Politics*, he raised \$874,453 last election cycle. He has already surpassed that amount this election cycle, having reported a net of \$955,171.28 on the 2004 Pre-Primary Report. What these facts show is that Geoff Davis is a well-funded candidate in a position to win election to the House in November. Given his ability to raise funds and the success his campaign has had thus far, he does not have to resort to money laundering or other shady gimmicks alluded to in the complaint (the complaint does not directly accuse Davis of wrongdoing¹). In fact, the \$15,000 at issue is a mere 1.57 % of his net fundraising. It simply does not make sense for Davis to engage in some sort of scheme over such an insignificant amount of money.

Ultimately, the complaint does not directly accuse Geoff Davis for Congress of wrongdoing, and offers no evidence in support of its conspiracy theory. Accordingly, the complaint ought to be dismissed.

¹ The complaint includes references to MIKEPAC – a committee which did not even contribute to the Davis campaign!

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'DMcGahn II', written in a cursive style.

Donald F. McGahn II
Counsel for Geoff Davis for Congress

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